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Clifton Lind

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EXAMINER

THOMAS, ERIC M

ART UNIT

PAPER NUMBER

3714

NOTIFICATION DATE

DELIVERY MODE

01/07/2010

ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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<b>Office Action Summary</b>	<b>Application No.</b> 10/726,979	<b>Applicant(s)</b> LIND ET AL.	
	<b>Examiner</b> Eric M. Thomas	<b>Art Unit</b> 3714	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 30 April 2009.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>5/4/09</u> . | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Response to Amendment***

This is in response to the amendments filed on 4/30/09; claims 1 – 5, 7 – 9, and 14 have been amended. Claims 1 – 20 are pending in the current application.

### ***Double Patenting***

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the “right to exclude” granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

**Claims 1-4, 7-11, & 14-16 are rejected on the ground of nonstatutory obviousness-type double "patenting as being unpatentable over claims 1, 3, 7-10, 12, 16-18, 21-22, 28, & 34-36 of U.S. Patent No. 6,802,776.**

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Although the conflicting claims are not identical, they are not patentably distinct from each " other because the subject matter of the conflicting claims is similar and, at times, almost identical in phrasing and terminology. The claims are not patentability distinct from one another because it would have been obvious at the time of the invention to implement a similar bingo game with a plurality of game play requests associated with respective players and request multiple bingo cards in order to provide multiplayer bingo system with multiple ways to win. One would be motivated because a multiplayer bingo system allows for players to enjoy a bingo game in a traditional setting.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) The invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) The invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

**Claims 1-20 are rejected under 35 U.S.C. 102(b) as being anticipated by Lind et al. (U.S. Patent Application Publication No. 2002/0111207).**

**Claims 1 & 8:** Lind et al. disclose the same invention including a method comprising the steps of: (a) matching a first set of game designations with a set of bingo card representations to produce a matched card set, the matched card set including a number of game play records with each game play record corresponding to a different one of the bingo card representations and including a result indicator indicating a result of the match between the first set of game designations and the respective bingo card representation; (b) receiving a number of game play requests, each respective game play request being associated with a respective player and a respective bingo card representation from the set of bingo card representations; and (c) for each game play request, assigning the respective player the game play record corresponding to the respective bingo card representation with which the respective player is associated (claim 1 & paragraph 0049). Lind et al. also disclose a program product Stored on a Computer readable medium, wherein the program product stores the program code to execute the above steps (claim 10). It is further disclosed in col. 9, lines 20 – 40, where it states that players effectively purchase bingo card representations by initiating game play requests through the various player stations. It further discloses that the result associated with that game play record is determined by the pattern in which the set of game designations for the particular game match the designations associated with the corresponding bingo card representation that is requested by the player (col. 9, lines 20 - 40).

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**Claim 2:** Lind et al. disclose assigning game play records from the matched card set until a game winning player holds a game play record corresponding to a matched bingo card representation

- having a game ending pattern; and withdrawing (i.e. disregarding) the matched card set from play in response to the assignment of the game play record corresponding to the matched bingo card representation having the game ending pattern (claim 3).

**Claim 3:** Lind et al. disclose matching an additional game designation set with the set of bingo card representations to produce an additional matched card set, the additional matched card set including a number of respective additional game play records with each additional game play record corresponding to a different one of the bingo card representations and including a result indicator indicating a result of the match between the additional game designation set and the respective bingo card representation (claim 7, paragraph 0074, & paragraph 0079).

**Claim 4:** Lind et al. disclose receiving an additional game play request associated with a given player who has already, been assigned a respective game play record from the matched card set, the additional game play request also being associated with a respective bingo card representation from the set of bingo card representations; and assigning the given player the additional game play record

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corresponding-to the respective bingo card representation with which the given player is associated (claims 7-9).

**Claim 5:** Lind et al. disclose assigning additional game play records from the additional matched card set in response to a game play request which next follows a game play request for which is assigned a game ending game play record (paragraphs 0054 & 0055).

**Claim 6:** Lind et al. disclose assigning game play records from the matched card set for a set period of time and then assigning additional game play records from the additional matched card set after that set period of time (paragraphs 0054 & 0055).

**Claim 7:** Lind et al. disclose 7. The method of claim 1 further including the steps of: (a) matching a number of additional game designation sets with the set of bingo card representations to produce a number of additional matched card sets, each additional matched card set including a number of respective additional game play records with each additional game play record in a given one of the additional matched cards, sets corresponding to a different one of the bingo card representations and including a result indicator indicating a result of the match between the respective additional game designation set and the respective bingo card representation; and (bi storing each additional matched card set so that respective additional game records are available for

assignment in response to a respective game play request.

**Claim 9:** Lind et al. disclose game ending play monitoring program code for detecting when a player has been assigned a game play record corresponding to a matched bingo card representation having a game ending pattern; and matched card set switching program code for switching to a different matched card set when the winning play monitoring program code detects that a player has been assigned the game play record corresponding to the matched bingo card representation having the game ending pattern (claim 12).

**Claim 10:** Lind et al. disclose the matching program code matches an additional game designation set with the set of bingo card representations to produce an additional matched card set, the additional matched card set including a number of respective additional game play records with each additional game play record corresponding to a different one of the bingo card representations and including a result indicator indicating a result of the match between the additional game designation set and the respective bingo card representation (claims 16 & 17).

**Claim 11:** Lind et al. disclose the game play assignment program code responds to a game play request from a given player who as been assigned a game play record from the matched card set by assigning the given player an additional game play record from the additional matched card set, the assigned additional game play record



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corresponding to the respective bingo card representation with which the given player is associated (claims 18, 28 & 34).

**Claim 12:** Lind et al. disclose the game play assignment program code assigns a respective additional game play record from the additional matched card set in response to a game play request which next follows a game play request for which is assigned a game ending play record from the matched card set (paragraphs 0054. & 0055).

**Claim 13:** Lind et al. disclose the game play assignment program code assigns game play records from the matched card set for a set period of time and then assigns additional game play records • from the additional matched card set after that set period of time (paragraphs 0054 & 0055).

**Claim 14:** Lind et al. disclose a gaming system comprising: (a) a number of player stations, each player station for enabling a player to initiate a game play request and for displaying results of a game play upon receipt of a game play record, each game play request initiated by a player being associated with the initiating player and with a respective bingo card representation in a set of bingo card representations; (b) a central processing system for storing a set of game play records, each game play record corresponding to a respective bingo card representation which has been matched to a first set of game designations, the central processing system also for

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assigning a respective game play record from the set of game play records to a player in response to a game play request initiated by the respective player at one of the player stations, the respective game play record assigned to the player being the game play record corresponding to the bingo card representation that is associated with that player; and (c) a communications system operatively connected to the central processing system and to each of the player stations for facilitating communications between the central processing system and each player station (claim 35, figure 3, & paragraphs 0030-0041 that describe figure 3).

**Claim 15:** Lind et al. disclose the central processing system stores a number of additional sets of game play records, each game play record in a respective additional set of game play records corresponding to a respective one of the bingo card representations which has been matched to an additional set of game designations; and the central processing system also assigns a respective game play record from one of the additional sets of game play records to a player in response to a game play request initiated by the respective player at a respective one of the player stations, the respective game play record assigned to the player from the additional set of game play records being the game play record in that additional set corresponding to the bingo card representation that is associated with that player (claim 36 & paragraphs 0030-0041).

**Claim 16:** Lind et al. disclose the matched card set includes a game ending game play record corresponding to a bingo card representation from the set of bingo card representations and wherein the central processing system withdraws the matched card set from play in response to the assignment of the game ending game play record (claims 2, 3, 21 & 22, note: the central processing system is the hardware that handles the withdrawing or disregarding of cards).

**Claim 17:** Lind et al. disclose a gaming floor component for directing a bingo card request to the central processing system in response to a bingo card request entered for a respective player, and wherein the central processing system responds to the bingo card request by associating a respective bingo card representation from the bingo card representation set with the respective player for whom the bingo card request was entered (paragraphs 0010, 0042, & 0048).

**Claim 18:** Lind et al. disclose the gaming floor component comprises one of the player stations (paragraph 0048).

**Claim 19:** Lind et al. disclose a point of sale terminal distinct from the player stations and wherein the gaming floor component comprises the point of sale terminal (paragraph 0041).

**Claim 20:** Lind et al. disclose the central processing system is also for maintaining a database correlating each of a number of respective players to one or

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more bingo card representations with which the respective player is associated (paragraphs 0037-0039).

**Claims 1-20 are rejected under 35 U.S.C. 102(e) as being anticipated by Lind et al. (U.S. Patent No. 6,802,776).**

The applied reference has a common inventor with the instant application. Based upon the earlier effective U.S. filing date of the reference, it constitutes prior art under 35 U.S.C. 102(e). This rejection under 35 U.S.C. 102(e) might be overcome either by a showing under 37 CFR 1.132. That any invention disclosed but not claimed in the reference was derived from the inventor(s) of this application and is thus not the invention "by another," or by an appropriate showing under 37 CFR 1.131.

**Claims 1 & 8:** Lind et al. disclose the same invention including a method comprising the steps of: (a) Matching a first set of game designations with a set of bingo card representations to produce a matched card set, the matched card set including a number of game play records with each game play record corresponding to a different one of the bingo card representations and including a result indicator indicating a result of the match between the first set of game designations and the respective bingo card representation; (b) receiving a number of game play requests, each respective game play request being associated with a respective player and a respective bingo card representation from the set of bingo card representations; and (c) for each game play

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request, assigning the respective player the game play record corresponding to the respective bingo card representation with which the respective player is associated (claim 1 & column 9, lines 42-60). Lind et al. also disclose a program product stored on a computer readable medium, wherein the program product stores the program code to execute the above steps (claim 10). It is further disclosed in par. [0048], where it states that players effectively purchase bingo card representations by initiating game play requests through the various player stations. It further discloses that the result associated with that game play record is determined by the pattern in which the set of game designations for the particular game match the designations associated with the corresponding bingo card representation that is requested by the player (par. 0048).

**Claim 2:** Lind et al. disclose assigning game play records from the matched card set until a game winning player holds a game play record corresponding to a matched bingo card representation having a game ending pattern; and withdrawing (i.e. disregarding) the matched card set from play in response to the assignment of the game play record corresponding to the matched bingo card representation having the game ending pattern (claim 3).

**Claim 3:** Lind et al. disclose matching an additional game designation set with the set of bingo card representations to produce an additional matched card set, the additional matched card set including a number of respective additional game play

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records with each additional game play record corresponding to a different one of the bingo card representations and including a result indicator indicating a result of the match between the additional game designation set and the respective bingo card representation (claim 7, column 17, lines 6-15, & column 18, lines 33-49).

**Claim 4:** Lind et al. disclose receiving an additional game play request associated with a given player who has already been assigned a respective game play record from the matched card set, the additional game play request also being associated with a respective bingo card representation from the set of bingo card representations; and assigning the given player the additional game play record corresponding to the respective bingo card representation" with which the given player is associated (claims 7-9).

**Claim 5:** Lind et al. disclose assigning additional game play records from the additional matched card set in response to a game play request which next follows a game play request for which is assigned a game ending game play record (column 10, line 53 - column 11, line 30).

**Claim 6:** Lind et al. disclose assigning game play records from the matched card set for a set period of time and then. Assigning additional game play records from the additional matched card set after that set period of time (column 10, line 53 - column 11,

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line 30).

**Claim 7:** Lind et al. disclose 7. The method of claim 1 further including the steps of: (a) matching a number of additional game designation sets with the set of bingo card representations to produce a number of additional matched card sets, each additional matched card set including a number of respective additional game play records with each additional game play record in a given one of the additional matched cards sets corresponding to a different one of the bingo card representations and including a result indicator indicating a result of the match between the respective additional game designation set and the respective bingo card representation; and (b) storing each additional matched card set so that respective additional game records are available for assignment in response to a respective game play request.

**Claim 9:** Lind et al. disclose game ending play monitoring program code for detecting when a player has been assigned a game play record corresponding to a matched bingo card representation having a game ending pattern; and matched card set switching program code for switching to a different matched card set when the winning play monitoring program code detects that a player has been assigned the game play record corresponding to the matched bingo card representation having the game ending pattern (claim 12).

**Claim 10:** Lind et al. disclose the matching program code matches an additional game designation set with the set of bingo card representations to produce an additional matched card set, the additional matched card set including a number of respective additional game play records with each additional game play record corresponding to a different one of the bingo card representations and including a result indicator indicating a result of the match between the additional game designation set and the respective bingo card representation (claims 16 & 17).

**Claim 11:** Lind et al. disclose the game play assignment program code responds to a game play request from a given player who has been assigned a game play record from the matched card set by assigning the given player an additional game play record from the additional matched card set, the assigned additional game play record corresponding to the respective bingo card representation with which the given player is associated (claims 18, 28 & 34).

**Claim 12:** Lind et al. disclose the game play assignment program code assigns a respective additional game play record from the additional matched card set in response to a game play request which next follows a game play request for which is assigned a game ending play record from the matched card set (column 10, line 53 - column 11, line 30).



**Claim 13:** Lind et al. disclose the game play assignment program code assigns game play records from the matched card set for a set period of time and then assigns additional game play records from the additional matched card set after that set period of time (column 10, line 53 - column 11, line 30).

**Claim 14:** Lind et al. disclose a gaming system comprising: (a) a number of player stations, each player station for enabling a player to initiate a game play request and for displaying results of a game play upon receipt of a game play record, each game play request initiated by a player being associated with the initiating player and with a respective bingo card representation in a set of bingo card representations; (b) a central processing system for storing a set of game play records, each game play record corresponding to a respective bingo card representation which has been matched to a first set of game designations, the central processing system also for assigning a respective game play record from the set of game play records to a player in response to a game play request initiated by the respective player at one of the player stations, the respective game play record assigned to the player being the game play record corresponding to the bingo card representation that is associated with that player; and (c) a communications system operatively connected to the central processing system and to each of the player stations for facilitating communications between the central processing system and each player station (claim 35, figure 3, & column 5, line 44 - column 7, line 64 which describe figure 3).

**Claim 15:** Lind et al. disclose the central processing system stores a number of additional sets of game play records, each game play record in a respective additional set of game play records corresponding to a respective one of the bingo card representations which has been matched to an additional set of game designations; and the central processing system also assigns a respective game play record from one of the additional sets of game play records to a player in response to a game play request initiated by the respective player at a respective one of the player stations, the respective game play record assigned to the player from the additional set of game play records being the game play record in that additional set corresponding to the bingo card representation that is associated with that player (claim 36 & column 5, line 44 - column 7, line 64)..

**Claim 16:** Lind et al. disclose the matched card set includes a game ending game play record corresponding to a bingo card representation from the set of bingo card representations and wherein the central processing system withdraws the matched card set from play in response to the assignment of the game ending game play record (claims 2, 3, 21 & 22, note: the central processing system is the hardware that handles the withdrawing or disregarding of cards).

**Claim 17:** Lind et al. disclose a gaming floor component for directing a bingo card request to the central processing system in response to a bingo card request input entered for a respective player, and wherein the central processing system responds to

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the bingo card request by associating a respective bingo card representation from the bingo card representation set with the respective player for whom the bingo card request input was entered (column 3, lines 17-39, column 7, lines 65 - column 8, line 11, & column 9, lines 20-40).

**Claim 18:** Lind et al. disclose the gaming floor component comprises one of the player stations (column 9, lines 20-40).

**Claim 19:** Lind et al. disclose a point of sale terminal distinct from the player stations and wherein the gaming floor component comprises the point of sale terminal (column 7, lines 54-64).

**Claim 20:** Lind et al. disclose the central processing system is also for maintaining a database correlating each of a number of respective players to one or more bingo card representations with which the respective player is associated (column 7, lines 10-42).

### ***Response to Arguments***

1. Applicant's arguments filed on 4/30/09 with respect to claims 1 – 7 regarding the 101 rejection has been fully considered and are persuasive. The 101 rejection of claims 1 – 7 has been withdrawn.
2. Applicant's arguments filed on 4/30/09 have been fully considered but they are not persuasive. Applicants argue that the present invention uses a matched bingo card

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similar to the "776" patent, but the main difference between the two relates to the game play requests are initiated by the players in the gaming system and how the records are selected from the matched card set for response to a game play request, more particularly, the Applicants state that "the present invention requires that each game play request is not only associated with a given player as in the "776", but also requires that the player is associated with a respective bingo card. The Applicants further argue that the "776" patent does not disclose nor does it claim or suggest the limitations in the present claims regarding the association between a game play request, a particular player, and a particular bingo card as required in element b of the independent claims. Applicants further argue that "there is thus no way the "776" patent could disclose assigning the player the game play record corresponding to the respective bingo card representation with which the respective player is associated", furthermore, "there simply is no association between a given bingo card representation and a player or game play request. The examiner respectfully disagrees with these arguments. First, as disclosed col. 3, lines 1 - 5, the "776" patent includes assigning individual game play records from the matched card set in response to game play requests initiated by the players, wherein the data representing these matched card sets may be stored in a data storage device. The "776" patent further discloses the players effectively purchase bingo card representations by initiating game play requests through various player stations, wherein each valid game play request causes a game play record corresponding to a bingo card representation to be assigned to the player initiating the game play request (col. 9, lines 20 - 25). The examiner views this as each game play

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request initiated by the player is not only associated with a player, but also a respective bingo card, therefore, providing an association between a given bingo card representation, a player, and a game play request. Thus, the examiner maintains that the "776" patent anticipates the present invention.

3. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Eric M. Thomas whose telephone number is (571) 272-1699. The examiner can normally be reached on 7a.m. - 3p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Hotaling can be reached on (571) 272-4437. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/John M Hotaling II/  
Primary Examiner, Art Unit 3714